

IN THE SUPREME COURT OF THE STATE OF MONTANA  
No. DA 23-0575

---

RIKKI HELD, et al.

*Plaintiffs and Appellees,*

v.

STATE OF MONTANA, et al.

*Defendants and Appellants.*

---

On Appeal from the First Judicial District Court, Lewis and Clark County,  
Cause No. CDV-2020-307, the Hon. Kathy Seeley, Presiding.

---

**MOTION FOR LEAVE FOR TREASURE STATE RESOURCES  
ASSOCIATION TO FILE AN AMICUS CURIAE BRIEF IN  
SUPPORT OF APPELLANTS**

---

Roger Sullivan  
Dustin Leftridge  
McGarvey Law  
345 1st Ave. East  
Kalispell, MT 59901  
(406) 752-5566  
[rsullivan@mcgarveylaw.com](mailto:rsullivan@mcgarveylaw.com)  
[dlefridge@mcgarveylaw.com](mailto:dlefridge@mcgarveylaw.com)

Barbara Chillcott  
Melissa Hornbein  
Western Environmental Law Center  
103 Reeder's Alley  
Helena, MT 59601  
(406) 708-3058  
[chillcott@westernlaw.org](mailto:chillcott@westernlaw.org)  
[hornbein@westernlaw.org](mailto:hornbein@westernlaw.org)

Nathan Bellinger (*pro hac vice*)  
Andrea Rodgers (*pro hac vice*)  
Julia Olsen (*pro hac vice*)  
Our Children's Trust  
1216 Lincoln Street  
Eugene, OR 97401  
(413) 687-1668  
[nate@ourchildrenstrust.org](mailto:nate@ourchildrenstrust.org)  
[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)  
[julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org)

Philip L. Gregory (*pro hac vice*)  
Gregory Law Group  
1250 Godetia Drive  
Redwood City, CA 94062  
(650) 278-2957  
[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)

*Attorneys for Plaintiffs/Appellees*

Dale Schowengerdt  
Landmark Law PLLC  
7 West 6<sup>th</sup> Ave., Suite 518  
Helena, MT 59601  
(406) 457-5496  
[dale@landmarklawpllc.com](mailto:dale@landmarklawpllc.com)

*Attorneys for Defendants/Appellants  
Department of Environmental  
Quality, Department of Natural  
Resources and Conservation,  
Department of Transportation, and  
Governor Gianforte*

Austin Knudsen  
*Montana Attorney General*  
Michael D. Russell  
Thane Johnson  
Montana Department of Justice  
P.O. Box 201401  
Helena, MT 59620-1401  
(406) 444-2026  
[michael.russell@mt.gov](mailto:michael.russell@mt.gov)  
[thane.johnson@mt.gov](mailto:thane.johnson@mt.gov)

Emily Jones  
*Special Assistant Attorney General*  
Jones Law Firm, PLLC  
115 N. Broadway, Suite 410  
Billings, MT 59101  
(406) 384-7990  
[emily@joneslawmt.com](mailto:emily@joneslawmt.com)

*Attorneys for Defendant/Appellant  
State of Montana*

Lee M. McKenna  
Montana DEQ  
P.O. Box 200901  
Helena, MT 59620-0901  
(406) 444-6559  
[Lee.mckenna@mt.gov](mailto:Lee.mckenna@mt.gov)

Mark Stermitz  
Crowley Fleck, PLLP  
305 S. 4<sup>th</sup> Street E., Suite 100  
Missoula, MT 59801-2701  
(406) 523-3600  
[mstermitz@crowleyfleck.com](mailto:mstermitz@crowleyfleck.com)

Selena Z. Sauer  
Crowley Fleck, PLLP  
P.O. Box 759  
Kalispell, MT 59903-0759  
(406) 752-6644  
[ssauer@crowleyfleck.com](mailto:ssauer@crowleyfleck.com)

Steven T. Wade  
Brian P. Thompson  
Hallee C. Frandsen  
Browning, Kaleczyc, Berry & Hoven,  
P.C.  
800 N. Last Chance Gulch, Suite 101  
P.O. Box 1697  
Helena, MT 59624  
(406) 443-6820 | Phone  
(406) 443-6883 | Fax  
steve@bkbh.com  
brian@bkbh.com  
hallee@bkbh.com

*Attorneys for Amicus Curiae  
Treasure State Resources Association*

The Treasure State Resources Association (hereinafter “TSRA”), by and through their undersigned counsel of record, respectfully seeks leave pursuant to Rule 12(7) of the Montana Rules of Appellate Procedure to file an *amicus curiae* brief in support of Appellants in the above-captioned matter.

Counsel for TSRA has contacted counsel for all parties. Counsel for Appellants and Appellees have indicated they do not oppose TSRA’s participation.

**I. Statements of Interest of Treasure State Resources Association.**

TSRA is a not-for-profit mutual benefit corporation organized according to the laws of the State of Montana and headquartered in Helena, Montana.

TSRA members are bound together by one commonality: economic activity through the responsible use of Montana’s resources. TSRA members consist of other trade associations, individual companies, labor organizations, and companies providing professional services. Industries and associations in TSRA’s membership include: agriculture; petroleum; hard rock, coal, and aggregate mining; timber and wood products; energy generation and transmission; transportation; contracting companies; and labor unions whose individual members work in the aforementioned industries.

These industries and their employees depend upon the responsible use and development of Montana’s natural resources for their economic activity and livelihoods—and they rely on predictable state permitting, leasing, and licensing

processes and other state authorizations which to some level may involve the mission of greenhouse gasses, including carbon dioxide, into the atmosphere to produce, extract, and/or transport their products into the state and world economies.

If the Court were to adopt the District Court's ruling requiring substantive consideration of carbon emissions, TSRA's industries and workforce would be prejudiced by the implication of the decision and may be required to expend financial and personnel resources to implement a subjective consideration process, and potentially any resulting not yet established regulation, or altogether cease business activities that utilize Montana's natural resources. The outcome of this case raises significant issues that this group and its membership care about, and jeopardizes the economic viability of a large swath of Montana's most important economic sectors and large employers.

## **II. TSRA has a Distinct and Unique Interest in this Case.**

TSRA and its members are uniquely positioned to assist the Court in understanding the broader implications and consequences the District Court's order may have upon Montana natural resource businesses. TSRA's members can provide the court with information regarding potential impacts to their business operations including issues of contradictory regulatory schemes, multi-state and

international commerce complications, and the impact to business and employment.

The concerns of TSRA are broad in scale. The implications, if the District Court's order were to be affirmed, could impact almost every facet of natural resources use in the state—from large commercial operations to a small scale farmer operating a combine harvester. A brief from TSRA is desirable for this Court as it is uniquely positioned to offer state-based and statewide insights and knowledge that would otherwise go unaddressed by other parties. No other party can offer the perspective of the collection of TSRA's membership operating in the State of Montana.

TSRA respectfully seeks this Court's leave to file an *amicus curiae* brief in support of Appellants. TSRA proposes to file its brief on or before February 16, 2024. This is three calendar days after the opening briefs of the Appellants are to be submitted.

RESPECTFULLY SUBMITTED this 17th day of January 2024.

BROWNING, KALECZYC, BERRY & HOVEN, P.C.

By /s/ Brian P. Thompson

Steven T. Wade

Brian P. Thompson

Hallee C. Frandsen

*Attorneys for Treasure State Resources Association*

## CERTIFICATE OF SERVICE

I, Brian P. Thompson, hereby certify that I have served true and accurate copies of the foregoing Motion - Amicus to the following on 01-17-2024:

Nathan Bellinger (Attorney)

1216 Lincoln St

Eugene OR 97401

Representing: Badge B., Lander B., Lilian D., Ruby D., Georgianna Fischer, Kathryn Grace Gibson-Snyder, Rikki Held, Taleah Hernandez, Jeffrey K., Mika K., Nathaniel K., Eva L., Sariel Sandoval, Kian T., Olivia Vesovich, Claire Vlases

Service Method: eService

Andrea K. Rodgers (Attorney)

3026 NW Esplanade

Seattle WA 98117

Representing: Badge B., Lander B., Lilian D., Ruby D., Georgianna Fischer, Kathryn Grace Gibson-Snyder, Rikki Held, Taleah Hernandez, Jeffrey K., Mika K., Nathaniel K., Eva L., Sariel Sandoval, Kian T., Olivia Vesovich, Claire Vlases

Service Method: eService

Roger M. Sullivan (Attorney)

345 1st Avenue E

MT

Kalispell MT 59901

Representing: Badge B., Lander B., Lilian D., Ruby D., Georgianna Fischer, Kathryn Grace Gibson-Snyder, Rikki Held, Taleah Hernandez, Jeffrey K., Mika K., Nathaniel K., Eva L., Sariel Sandoval, Kian T., Olivia Vesovich, Claire Vlases

Service Method: eService

Melissa Anne Hornbein (Attorney)

103 Reeder's Alley

Helena MT 59601

Representing: Badge B., Lander B., Lilian D., Ruby D., Georgianna Fischer, Kathryn Grace Gibson-Snyder, Rikki Held, Taleah Hernandez, Jeffrey K., Mika K., Nathaniel K., Eva L., Sariel Sandoval, Kian T., Olivia Vesovich, Claire Vlases

Service Method: eService

Philip L. Gregory (Attorney)

1250 Godetia Drive

Woodside CA 94062

Representing: Badge B., Lander B., Lilian D., Ruby D., Georgianna Fischer, Kathryn Grace Gibson-Snyder, Rikki Held, Taleah Hernandez, Jeffrey K., Mika K., Nathaniel K., Eva L., Sariel Sandoval, Kian T., Olivia Vesovich, Claire Vlases  
Service Method: eService

Barbara L Chillcott (Attorney)  
103 Reeder's Alley  
Helena MT 59601

Representing: Badge B., Lander B., Lilian D., Ruby D., Georgianna Fischer, Kathryn Grace Gibson-Snyder, Rikki Held, Taleah Hernandez, Jeffrey K., Mika K., Nathaniel K., Eva L., Sariel Sandoval, Kian T., Olivia Vesovich, Claire Vlases  
Service Method: eService

Dustin Alan Richard Leftridge (Attorney)  
345 First Avenue East  
Montana  
Kalispell MT 59901

Representing: Badge B., Lander B., Lilian D., Ruby D., Georgianna Fischer, Kathryn Grace Gibson-Snyder, Rikki Held, Taleah Hernandez, Jeffrey K., Mika K., Nathaniel K., Eva L., Sariel Sandoval, Kian T., Olivia Vesovich, Claire Vlases  
Service Method: eService

Michael D. Russell (Govt Attorney)  
215 N Sanders  
Helena MT 59620

Representing: Greg Gianforte, MT Dept Environmental Quality, Department of Natural Resources, Billings Regional Office, MT Dept of Transportation, State of Montana  
Service Method: eService

Mark L. Stermitz (Attorney)  
304 South 4th St. East  
Suite 100  
Missoula MT 59801

Representing: Greg Gianforte, MT Dept Environmental Quality, Department of Natural Resources, Billings Regional Office, MT Dept of Transportation, State of Montana  
Service Method: eService

Thane P. Johnson (Govt Attorney)  
215 N SANDERS ST  
P.O. Box 201401  
HELENA MT 59620-1401

Representing: Greg Gianforte, MT Dept Environmental Quality, Department of Natural Resources, Billings Regional Office, MT Dept of Transportation, State of Montana  
Service Method: eService

Emily Jones (Attorney)  
115 North Broadway  
Suite 410  
Billings MT 59101



Representing: Greg Gianforte, MT Dept Environmental Quality, Department of Natural Resources,  
Billings Regional Office, MT Dept of Transportation, State of Montana  
Service Method: eService

Selena Zoe Sauer (Attorney)  
1667 Whitefish Stage Rd.  
#101  
Kalispell MT 59901-2173

Representing: Greg Gianforte, MT Dept Environmental Quality, Department of Natural Resources,  
Billings Regional Office, MT Dept of Transportation, State of Montana  
Service Method: eService

Dale Schowengerdt (Attorney)  
7 West 6th Avenue, Suite 518  
Helena MT 59601

Representing: Greg Gianforte, MT Dept Environmental Quality, Department of Natural Resources,  
Billings Regional Office, MT Dept of Transportation, State of Montana  
Service Method: eService

Lee M. McKenna (Govt Attorney)  
1520 E. Sixth Ave.  
HELENA MT 59601-0908  
Representing: MT Dept Environmental Quality  
Service Method: eService

Quentin M. Rhoades (Attorney)  
430 Ryman St.  
2nd Floor  
Missoula MT 59802  
Representing: Friend of the Court  
Service Method: eService

Juan Carlos Rodriguez (Interested Observer)  
Service Method: Conventional

Byron L. Trackwell (Amicus Curiae)  
7315 SW 23rd Court  
Topeka KS 66614  
Service Method: Conventional

Julia A. Olson (Attorney)  
1216 Lincoln St.  
Eugene OR 97401  
Representing: Badge B., Lander B., Lilian D., Ruby D., Georgianna Fischer, Kathryn Grace Gibson-Snyder, Rikki Held, Taleah Hernandez, Jeffrey K., Mika K., Nathaniel K., Eva L., Sariel Sandoval, Kian T., Olivia Vesovich, Claire Vlases  
Service Method: Conventional

Electronically Signed By: Brian P. Thompson  
Dated: 01-17-2024